



Substitute House Bill No. 5800

Special Act No. 08-9

AN ACT CONCERNING THE CHARTER OF THE METROPOLITAN DISTRICT OF HARTFORD COUNTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 39 of number 511 of the special acts of 1929, as amended by special act 80-14 and special act 90-14, is amended to read as follows (*Effective from passage*):

(a) As used in this section:

(1) "Lowest qualified bidder" means the bidder whose bid is the lowest of those bidders possessing the skill, ability and integrity necessary to faithful performance of the work based on objective criteria considering past performance and financial responsibility;

(2) "Minority business enterprise" means any small contractor (A) of which twenty-five per cent of the employees are members of a minority, (B) in which fifty-one per cent or more of the capital stock, if any, or assets of which are owned by a person or persons who (i) are active in the daily affairs of the enterprise, (ii) have the power to direct the management and policies of the enterprise, and (iii) are members of a minority, and (C) that has a certificate of eligibility issued by the Department of Administrative Services under regulations adopted under section 4a-60h of the general statutes;

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(3) "Minority" means (A) Black Americans, including all persons having origins in any of the black African racial groups not of Hispanic origin, (B) Hispanic Americans, including all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race, (C) Asian Pacific Americans and Pacific Islanders, or (D) American Indians and persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification;

(4) "Responsible" means the ability to perform a contract for the amount specified in a submitted bid; and

(5) "Small contractor" means any contractor, subcontractor, manufacturer or service company (A) that has been doing business under the same ownership or management and has maintained its principal place of business in the state for a period of at least one year immediately prior to the date of application for certification under regulations adopted under section 4a-60h of the general statutes, (B) that had gross revenues not exceeding ten million dollars in the most recently completed fiscal year prior to such application, (C) of which at least fifty-one per cent of the ownership is held by a person or persons who exercise operational authority over the daily affairs of the business, and (D) has the authority to direct the management and policies and receive the beneficial interests of the business. Notwithstanding the provisions of this subdivision, a nonprofit corporation shall be construed to be a small contractor if such nonprofit corporation meets the requirements of subparagraphs (A) and (B) of this subdivision.

(b) Whenever any work shall be necessary to execute or perfect any public work or improvement, or whenever any supplies for the district shall be needed for any particular purpose and such work or supplies shall involve the expenditure of more than [ten] twenty-five thousand

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dollars, except in the case of an emergency to be determined by the district board, a written contract for such work or supplies shall be made under such regulations or ordinances as the district board may establish, which contract shall be based on sealed bids. [made in compliance with public notice, duly advertised by publication, in a daily newspaper published in said district, at least five days before the time fixed for opening such bids or proposals.] At least ten calendar days prior to the time designated for opening competitive bids or proposals, the district shall solicit competitive bids or proposals by (1) publishing notice in daily and weekly newspapers servicing the member municipalities, and (2) posting notice on the Internet web site of the district. The district may send such notice to trade associations or other groups active in the business or service solicited. Each contract awarded by the district shall be awarded to the lowest qualified bidder with bid requirements, except as provided in this subsection.

(c) Pursuant to the provisions of a minority business disparity study conducted by the district, the district may waive the provisions of subsection (b) of this section concerning selection of the lowest qualified bidder if a responsible qualified bid is submitted by a minority business enterprise or by a nonminority business enterprise in association with a responsible qualified bid with a minority business enterprise. In the case of a bid submitted by a nonminority business enterprise in association with a responsible qualified bid with a minority business enterprise, the district shall give priority to such bid in an amount equal to the proportion of participation by a minority business enterprise in the responsible qualified bid.

(d) Pursuant to the provisions of a minority business disparity study conducted by the district, in awarding a contract, a bid shall be considered to be the same as the lowest qualified bid if such bid is not more than five per cent greater than the amount of the lowest qualified bid and the responsible contractor that submitted the bid agrees to

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perform the contract for the amount of the lowest qualified bid. Such bids shall be considered in the following order of priority: (1) A minority business enterprise whose principal place of business is located in a member municipality of the district, (2) a minority business enterprise whose principal place of business is located in a member municipality of the district, participating with a nonminority business enterprise whose principal place of business is located in a member municipality of the district, (3) a minority business enterprise whose principal place of business is located in a member municipality of the district, participating with a nonminority business enterprise, and (4) a minority business enterprise whose principal place of business is not located in a member municipality of the district.

(e) If a bid selected includes participation by a minority business enterprise, the contract or subcontract shall be performed with at least the same proportion of minority business enterprise participation as the priority that was given by the district to the general contractor or subcontractor in evaluating the bid. If more than one minority business enterprise submit bids that are not more than five per cent greater than the lowest qualified responsible bid and such bids are in the same priority category established in subsection (d) of this section, then the contract shall be awarded to the minority business enterprise submitting the lowest responsible qualified bid whose original bid was lower.

(f) If a contract or subcontract awarded to a nonminority business enterprise includes participation by a minority business enterprise, the general contractor or subcontractor shall submit to the district every thirty days after the date the work has commenced under the contract or subcontract a report which describes the extent of minority business enterprise participation in performance of the contract or subcontract. Such report shall identify all subcontracts and the dollar value of the contract between the general contractor and the subcontractor. If the extent of minority business enterprise participation in such contract is

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less than the amount of priority that was committed at the time of the award, the district may (1) claim any retainage payable under the terms of the contract, and (2) disqualify the bidder from any future contracts.

(g) The district may waive the provisions of subsection (b) of this section to apply, by regulation or ordinance, the procedures described in the Federal Acquisition Regulation System, as amended, to implement construction delivery systems, acquisition policies and procedures, or to increase contract participation by small contractors, minority business enterprises and businesses located in member municipalities of the district.

(h) The district shall establish a program to assist potential minority business enterprises in obtaining technical assistance or bonds to ensure performance completion in contracts awarded by the authority. The district shall make a grant in the amount of two hundred thousand dollars to an entity, that the district determines to be qualified, for the purpose of training residents of member municipalities to qualify for employment in projects of the district.

(i) The district may adopt regulations or ordinances to implement the provisions of this section. The district shall send a copy of such regulations or ordinances to the joint standing committees of the General Assembly having cognizance of matters relating to planning and development and to commerce, and to the Office of Workforce Competitiveness.

(j) Subject to regulations adopted by the Commissioner of Environmental Protection under section 22a-482 of the general statutes and the provisions of the general statutes, the (1) district shall pay any uncontested sum due any contractor under a contract awarded by the district not later than sixty days after its completion and acceptance. After such sixty-day period, interest shall begin to run in favor of the contractor at the rate of six per cent per annum on the unpaid balance.

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(2) Each contractor awarded a contract by the district shall pay any uncontested amounts due any subcontractor not later than thirty days after the date the contractor receives payment from the district for the labor performed or materials furnished by such subcontractor. After such thirty-day period, interest shall begin to run in favor of the subcontractor at the rate of six per cent per annum on the unpaid balance.

Approved June 12, 2008